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8 SALEH ALDABASHI
9 5037 Sawyer Lake Drive
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12 aldabasih@earthlink.net
13 Plaintiff, Pro Per, individually and as guardian ad litem on behalf of
14 SALEH "JULIAN" ALDABASHI

15 JOHN A. RUSSO, City Attorney - SB #129729
16 RANDOLPH W. HALL, Asst. City Atty. - SB #080142
17 WILLIAM E. SIMMONS, Supervising Trial Atty.- SB #121286
18 STEPHEN Q. ROWELL, Senior Deputy City Atty.- SB #098228
19 One Frank Ogawa Plaza, 6th Floor
20 Oakland, California 94612
21 Telephone: (510) 238-3865 Fax: (510) 238-6500
22 sqrowell@oaklandcityattorney.org
23 Attorneys for Defendant
24 CITY OF OAKLAND
25 25815/445580

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 BEVERLY ALDABASHI, SALEH
21 ALDABASHI, in his own right and as
22 guardian ad litem on behalf of his minor
23 son, SALEH "JULIAN" ALDABASHI,

24 Plaintiffs,

25 v.

26 DOES 1 through 20, inclusive, and the
CITY OF OAKLAND, CALIFORNIA,

Case No. C 08-00217 JSW

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
[Proposed] CASE MANAGEMENT
ORDER**

Date: April 25, 2008

Time: 1:30 p.m.

Ctrm: 2

Hon. Jeffery S. White

Defendants.

Pursuant to Civil Local Rule 16-9, the parties to the above-entitled action jointly submit this Case Management Statement and Proposed Order, and request the Court to adopt it as its Case Management Order in this case.

1. Jurisdiction and Service

This action has been brought under 42 U.S.C. § 1983. Jurisdiction is based on 28 U.S.C. § 1331 and §1343. The court has supplemental jurisdiction over state law claims under 28 U.S.C. § 1367. All named parties have been served with the summons and complaint.

2. Facts

On October 4, 2006, Oakland police officer Bradley Baker shot and killed a German Shepard dog which belonged to the plaintiffs. The incident occurred when Officer Baker was responding to a domestic disturbance call at a single family residence in Oakland. He encountered the dog and plaintiff Beverly Aldabashi as he approached the front of the house. Neither plaintiff Saleh Aldabashi, nor plaintiff Julian Aldabashi, was present at any time during the incident. According to Officer Baker, Ms. Aldabashi let go of the dog's leash and the dog was about to attack him when he shot it. The plaintiffs deny this and contend that the officer shot the dog without provocation.

1 Plaintiff Beverly Aldabashi claims to been struck by bullet fragments when the officer shot
2 at the dog.

3
4 **The principal factual issues that the parties dispute are:**

- 5 a. Whether the officer reasonably believed that the dog posed a threat of
6 serious bodily injury;
- 7 b. Whether the dog had been trained as a "attack dog";
- 8 c. Whether the dog had shown a propensity to bite humans before the
9 incident;
- 10 d. Whether the plaintiffs knew or should have known that the dog had a
11 propensity to bite humans before the incident;
- 12 e. Whether the officers' actions caused or contributed to marital
13 difficulties between plaintiffs Beverly Aldabashi and Saleh Aldabashi;
- 14 f. Whether plaintiff Beverly Aldabashi held the dog's leash when the
15 officer fired his gun;
- 16 g. Whether plaintiff Beverly Aldabashi suffered physical injuries during
17 the incident;
- 18 h. The nature and extent of physical or emotional injuries suffered by
19 plaintiffs as a result of the incident;
- 20 i. The nature and extent of plaintiffs' out of pocket damage;
- 21 j. Whether officers who investigated the incident threatened plaintiff
22 Aldabashi;
- 23 k. Whether officers conspired against the plaintiffs.

24 **3. The principal legal issues that the parties' dispute are:**

- 25 a. Whether the actions of the City or the officers constituted a violation
26 of plaintiffs' constitutional rights;

- b. Whether any officer engaged in tortuous conduct during the incident;
- c. Whether the defense of qualified immunity applies;
- d. Plaintiff's entitlement to emotional distress damages.

4. Motions

Defendants anticipate moving for summary judgment on plaintiffs Fourth Amendment Claims and common law tort theories alleged against the City.

5. Amendment of Pleadings

None anticipated.

6. Evidence Preservation

Plaintiff Beverly Aldabashi's investigation of the incident contains pertinent evidence of the incident including interview statements, photographs, medical records, and service certification of the dog that was killed. Copies of these materials have been acquired and maintained by Plaintiff Beverly Aldabashi.

The City of Oakland investigation of the incident contains the most pertinent evidence of the incident including interview statements and photographs. Copies of these materials have been retrieved and are maintained at the Oakland City Attorney's office.

7. Disclosures

Copies of Plaintiff Beverly Aldabashi's Initial Disclosures made pursuant to Federal Rule 26 are attached hereto and incorporated herein as Exhibit A.

1
2 Copies of Defendant's Initial Disclosures made pursuant to Federal Rule 26 are
3 attached hereto and incorporated herein as Exhibit B.

4
5 **8. Discovery**

6 No formal discovery has taken place to date. The parties agree that the discovery
7 limitations in the Federal Rules of Civil Procedure will apply absent a stipulation or order to
8 the contrary.

9
10 **9. Class Action**

11 N/A

12
13 **10. Related Cases**

14 N/A

15
16 **11. Relief**

17 Plaintiff Beverly Aldabashi, who was personally injured in the subject incident and
18 lost her certified service dog seeks general and special compensatory damages (including
19 direct, indirect, and emotional damages) presumed damages, and nominal damages of at
20 least \$500,000.00. She seeks punitive (exemplary) damages against defendants, in an
21 amount to be determined by the trier of facts. She also seeks an award for three times the
22 actual damages awarded, and for a civil penalty of \$25,000.00 for each violation which
23 occurred, pursuant to Cal. Civil Code §§ 52.1 and 52(a), (b). Finally, pursuant to 42 U.S.C.
24 § 1988(b), CCP §1021.5, and Civil Code § 52(b)(3), Plaintiff Beverly Aldabashi seeks
25 reasonable attorney's fees and costs and expenses of litigation.
26

1 ///

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3 **12. Settlement and ADR**

4 Defendant is amenable to a settlement conference before a magistrate judge.

5

6 **13. Consent to Magistrate Judge For All Purposes**

7

8 The parties do not consent to assignment of this case to a United States District
9 Magistrate Judge.

10

11 **14. Other References**

12 This case is not suitable for reference to binding arbitration, a special master or the
13 Judicial Panel on Multidistrict Litigation.

14

15 **15. Narrowing of Issues**

16

17 Defendants intend to move for summary judgment on the qualified immunity and
18 conspiracy tort issues in the case.

19

20 **16. Expedited Schedule:**

21

22 None requested.

23

24 **17. Scheduling:**

25

26 The parties propose:

27

28 A. Fact Discovery Cut-Off: January, 16, 2009

29

30 B. Expert disclosures: January 16, 2009

31

32 C. Expert discovery: February 13, 2009

33

34 D. Hearing of Dispositive Motions: February 13, 2009

35

36 E. Pretrial Conference: March 30, 2009

37

38 **18. Trial Date:**

39

40 The parties propose: April 13, 2009 Time estimate: 8 days

1
2
3 **19. Disclosure of Non-Party Interested Entities or Persons**

4 As per Civil Local Rule 3-16, plaintiff Beverley Aldabashi and defendants are not
5 aware of any persons, firms, partnerships, corporations or other entities which has either
6 (i) a financial interest in the subject matter in controversy or in a part to the proceeding; or
7 (ii) and any other kind of interest that could be substantially affected by the outcome of the
8 proceeding.

9 **SIGNATURE AND CERTIFICATION BY PARTIES AND LEAD TRIAL COUNSEL**

10 Pursuant to Civil L.R. 16-12, each of the undersigned certifies that he or she has
11 read the brochure entitled "Dispute Resolution Procedures in the Northern District of
12 California," discussed the available dispute resolution options provided by the court and
13 private entities and has considered whether their case might benefit from any of the
14 available dispute resolution options.
15

16 Respectfully submitted,

17
18 Dated: April 17 , 2008

/s/

Omar Krashna
KRASHNA LAW FIRM
Attorneys for Plaintiff
BEVERLY ALDABASHI

22
23
24 Dated: April 18, 2008

/s/

SALEH ALDABSHI, individually and as guardian ad litem
for JULIAN ALDABSHI

1
2 Dated: April 18, 2008

JOHN A. RUSSO, City Attorney
RANDOLPH W. HALL, Assistant City Attorney
WILLIAM E. SIMMONS, Supervising Trial Attorney
STEPHEN Q. ROWELL, Deputy City Attorney

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4
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6 By: 
7 Attorneys for Defendant
8 CITY OF OAKLAND

9
10 **CASE MANAGEMENT ORDER**

11 The Case Management Statement and Proposed Order is hereby adopted
12 by the Court as the Case Management Order for the case and the parties are ordered to
13 comply with this Order. In addition, the Court orders:
14
15
16
17

18 Dated: _____

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

EXHIBIT A

OMAR KRASHNA - SB #214567
KRASHNA LAW FIRM
1440 Broadway, Suite 308
Oakland, California, 94612
Telephone: (510) 836-2999 Fax: (510) 836-2900
okrashna@yahoo.com

Attorney for Plaintiff Beverly Aldabashi

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEVERLY ALDABASHI, SALEH
ALDABASHI, in his own right and as
guardian ad litem on behalf of his minor son,
SALEH "JULIAN" ALDABASHI,

Plaintiffs,

v.

DOES 1 through 20, inclusive, and the
CITY OF OAKLAND, CALIFORNIA,

Defendants.

Case No.: C 08-00217 JSW

**PLAINTIFF BEVERLY ALDABASHI'S
INITIAL DISCLOSURES**

FRCP 26(a)(1)

PLAINTIFF'S RULE 26(a)(1) INITIAL DISCLOSURES

Pursuant to Fed. R. Civ. P. 26(a)(1), Plaintiff BEVERLY ALDABASHI hereby serves
the following Initial Disclosures to Defendants.

**1. Individuals who may have discoverable information relevant to disputed facts
alleged with particularity in the pleadings.**

Names, Last Known Telephone Numbers.

1. Plaintiff Beverly Aldabashi, c/o Krashna Law Firm;

C 08-00217 JSW

Plaintiff Beverly Aldabashi's' Initial Disclosures

1 2. Bianca Sosa—510.282.0857;

2 3. Chris Bartell—510.282.0857;

3 4. Several Oakland police officers who witnessed the incident; Plaintiff does not
4 currently know their identities, but will be able to do so through discovery.

5
6 *Subject(s) of the Information Individuals are Likely to Have Relevant to Disputed Facts.*

7
8 Plaintiff Beverly Aldabashi; has direct knowledge regarding the facts alleged in the
9 complaint, as she is the primary aggrieved plaintiff;

10 Bianca Sosa; plaintiff Beverly Aldabashi's then-19 year old daughter; witnessed the
11 incident giving rise to this action;

12 Chris Bartell; friend of Bianca Sosa; witnessed the incident giving rise to this action;

13
14 **2. Documents, Data Compilations, and Tangible Things that are Relevant to
Disputed Facts.**

15 Plaintiff will produce affidavits from the statements of Bianca Sosa and Chris Bartell
16 substantiating Plaintiffs' affirmative claims. Plaintiff also has records relating to her medical
17 care post-incident, and records relating to the service certification of the dog that the primary
18 subject Oakland police officer (i.e. Bradley Baker) shot and killed.

19
20 **3. Computation of Damages.**

21 Plaintiff Beverly Aldabashi, who was personally injured in the subject incident and lost
22 her certified service dog seeks general and special compensatory damages (including direct,
23 indirect, and emotional damages) presumed damages, and nominal damages of at least
24 \$500,000.00. She seeks punitive (exemplary) damages against defendants, in an amount to
25

1 be determined by the trier of facts. She also seeks an award for three times the actual damages
2 awarded, and for a civil penalty of \$25,000.00 for each violation which occurred, pursuant to
3 Cal. Civil Code §§ 52.1 and 52(a), (b). Finally, pursuant to 42 U.S.C. § 1988(b), CCP §1021.5,
4 and Civil Code § 52(b)(3), Plaintiff Beverly Aldabashi seeks reasonable attorney's fees and
5 costs and expenses of litigation.

6 DATED:

7
8 KRASHNA LAW FIRM

9
10 /s/
11 Omar Krashna
12 Attorney for Plaintiff
13 BEVERLY ALDABASHI
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PROOF OF SERVICE

I, the undersigned, declare that I am employed in the City of Oakland, County of Alameda, California. I am over 18 years of age and am not a party to the within entitled cause; my business address is 1440 Broadway, Suite 308, Oakland CA 94612. On the date indicated below, I caused to be served the attached documents:

PLAINTIFF BEVERLY ALDABASHI'S INITIAL DISCLOSURES

on the party/parties in said cause, by placing a true copy thereof in a sealed envelope, each envelope addressed as follows:

STEPHEN Q. ROWELL, Senior Deputy City Atty.
City Attorney's Office, City of Oakland
One Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

XX (BY US POSTAL MAIL) placing true and correct copies thereof enclosed in a sealed envelope(s), with first class postage fully prepaid, for collection and mailing at Krashna Law Firm, 1440 Broadway, Suite 308, Oakland CA 94612 addressed as set forth above. I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so placed would be deposited with the United States Postal Service that same day in the ordinary course of business.

____ (BY PERSONAL SERVICE) I caused each such envelope to be delivered by hand to the office of each addressee set forth above.

____ (BY OVERNIGHT DELIVERY) placing true and correct copies thereof enclosed in a sealed envelope(s), for overnight delivery, in a box or other facility regularly maintained by an express service carrier, or delivered to an authorized courier or driver authorized by that express service carrier with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served, at the office address as last given by that person(s) on any document filed in the cause and served on the party making service or at that party's/partys' place of residence.

XX (BY FACSIMILE) transmission to a facsimile machine maintained by the person(s) on whom it is served at the facsimile machine telephone number as last given by that person(s) on any document filed in the cause and served on the party making service.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and that this declaration was executed on April _____, 2008, in Oakland, California.

Carolyna Mejia

EXHIBIT B

1 JOHN A. RUSSO, City Attorney - State Bar #129729
2 RANDOLPH W. HALL, Asst. City Atty. - SB #080142
3 WILLIAM E. SIMMONS, Supervising Trial Atty.- SB #121286
4 STEPHEN Q. ROWELL, Senior Deputy City Atty.- SB #098228
5 One Frank Ogawa Plaza, 6th Floor
6 Oakland, California 94612
7 Telephone: (510) 238-3865 Fax: (510) 238-6500
8 25815/444165

9 Attorneys for Defendant
10 CITY OF OAKLAND

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 BEVERLY ALDABASHI, SALEH
14 ALDABASHI, in his own right and as
15 guardian *ad litem* guardian ad litem on
16 behalf of his minor son, SALEH "JULIAN"
17 ALDABASHI,

18 Plaintiffs,

19 v.

20 DOES 1 through 20, inclusive, and the
21 CITY OF OAKLAND,

22 Defendants,

Case No. C08-00217 JSW

DEFENDANT CITY OF OAKLAND'S
INITIAL DISCLOSURES

23 Defendant CITY OF OAKLAND makes the following Initial Disclosure pursuant to
24 Federal Rules of Civil Procedure, Rule 26(a)(1) and Local Rule 16-5.

25 (A) **WITNESSES**

26 The following City of Oakland personnel may have pertinent information about the
facts of this case and can be reached by contacting Sr. Deputy City Attorney Stephen Q.
Rowell, One Frank Ogawa Plaza, 6th Floor; Oakland, CA 94612; (510) 238-3865 :

1. Officer B. Baker;
2. Lt. Anthony Villalobos (Oakland Fire Department);

3. Officer Eric McGlaston;
4. Officer David Hazelwood;
5. Officer Michael Mack;
6. Sergeant Allan Steinberger;
7. Sergeant Michael Yoell;

The following individuals may have witnessed some or all of the event and/or may have pertinent information about the facts of this case:

1. Beverley Aldabashi;
2. Bianca Sosa, 944 W. MacArthur Blvd., Oakland, CA;
3. Richard Ybarra, 944 W. MacArthur Blvd., Oakland, CA;
4. Chloe Ybarra, 944 W. MacArthur Blvd., Oakland, CA;
5. Christopher Bartels, address unknown;
6. Candace Bushnell, 950 W. MacArthur Blvd., #2; Oakland, CA;
7. Toni Wallace, 939 W. MacArthur Blvd., Oakland, CA;
8. Matthew Henderson, 944 W. MacArthur Blvd., Oakland, CA.

(B) DOCUMENTS RELEVANT TO DISPUTED FACTS

1. Crime Report 06-086493;
2. Use of Force Report #06F-1213
3. Recordings of 911 calls
4. Recordings of radio transmissions
5. OPD Incident Recall re subject incident;

1 6. The Oakland Police Department Internal Affairs File #06-804, which includes
2 photographs and witness statements pertaining to the incident, shall be produced
3 upon execution of stipulation and Protective Order.

4 **(C) COMPUTATION OF DAMAGES**

5 Unknown to defendants.

6 **(D) INSURANCE AGREEMENTS**

7 None. The Oakland Defendants are self-insured.

8 I certify under penalty of perjury that the foregoing disclosures are accurate and
9 complete to the best of my knowledge.
10

11
12 April 7, 2008

13 JOHN A. RUSSO, City Attorney
14 RANDOLPH W. HALL, Assistant City Attorney
15 WILLIAM E. SIMMONS, Supervising Trial Attorney
16 STEPHEN Q. ROWELL, Sr. Deputy City Attorney

17 By: _____
18 Attorneys for Defendant CITY OF OAKLAND
19
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PROOF OF SERVICE

**Beverly Aldabashi, et al. v. City of Oakland, et al.
United States District Court Case No. C08-00217 EMC**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is City Hall, One Frank H. Ogawa Plaza, 6th Floor, Oakland, California 94612. On the date set forth below I served the within documents:

DEFENDANT CITY OF OAKLAND'S INITIAL DISCLOSURES

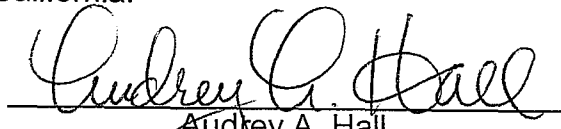
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, California addressed as set forth.
- ☐ by causing personal delivery by (name) of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by causing such envelope to be sent by Federal Express/ Express Mail.

Omar Krashna, Esq.
KRASHNA LAW FIRM
1440 Broadway, Suite 308
Oakland, CA 94612

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 9, 2008, at Oakland, California.


Audrey A. Hall